

SUMMARY OF MANAGEMENT ACTIONS FOR THE FLAT-TAILED HORNED LIZARD (*Phrynosoma mcallii*)

- On November 29, 1993, the U.S. Fish and Wildlife Service published a proposed rule to list the flat-tailed horned lizard (FTHL) as a threatened species (58 FR 62624, 1993). The USFWS cited “documented and anticipated population declines associated with widespread habitat loss, fragmentation, and degradation due to human activities such as agricultural developments, urban expansion, off-highway vehicle use, energy developments, and military activities” as the primary bases for the proposed listing. The USFWS could not determine critical habitat at that time.
- A public meeting was held in El Centro on March 22, 1994, to gather public comment.
- The passage of Public Law No. 104-6, 109 Stat. 73 in April 1995 delayed consideration of listing the FTHL until an executive waiver, signed by President Clinton on April 26, 1996, allowed the Secretary of the Interior to again list species for protection under the Endangered Species Act.
- In response to a lawsuit brought by the Defenders of Wildlife and others, the Secretary of the Interior was ordered by the district court in Arizona on May 16, 1997 to issue a final decision on the listing of the FTHL, within 60 days.
- In July 1997, a [Conservation Agreement](#) was finalized between numerous agencies including Fish and Wildlife Service, U.S. Bureau of Land Management, U.S. Bureau of Reclamation, Marine Corps Air Station - Yuma, U.S. Navy, Arizona Game and Fish Department, California Department of Fish and Game, and California Department of Parks and Recreation.
- On July 15, 1997, the Secretary of the Interior issued a notice to withdraw the proposal to list the FTHL based on three primary factors: 1) population trend data did not conclusively demonstrate significant population declines; 2) some of the threats to the habitats occupied by FTHLs had become less serious since the proposed rule was issued; and 3) the 1997 Conservation Agreement and Rangewide Management Strategy would ensure a further decrease in threats to the FTHL and its habitat.
- The Defenders of Wildlife again filed suit against the Secretary of the Interior in district court. On June 16, 1999 the district court for the Southern District of California issued a summary judgement upholding the Secretary of the Interior’s decision not to list the FTHL.
- The Defenders of Wildlife appealed the case to the Ninth Circuit Court of Appeals, which on July 31, 2001 reversed the district court’s ruling and asserted that the Secretary of the Interior’s decision to withdraw the FTHL from consideration for listing was “arbitrary and capricious.” The primary reasoning for this decision was that the Secretary of the Interior did not adequately address the meaning of the phrase, “in danger of extinction throughout ... a significant portion of its range” and how an adequate interpretation of this phrase applies to the status of the FTHL. Furthermore, the court expressed concern about the incomplete implementation of the 1997 Conservation Agreement.
- On October 24, 2001, the district court ordered the Secretary of the Interior to reinstate the 1993 proposed rule to list the FTHL. The proposed rule was reinstated December 26, 2001. A copy of the court’s opinion is available online at: <http://www.ca9.uscourts.gov/>.

- On January 3, 2003, the USFWS withdrew the proposed rule to list the FTHL as a threatened species. They determined that listing was not warranted because threats to the species as identified in the proposed rule were not as significant as earlier believed, and current available data did not indicate that the threats to the species and its habitat were likely to endanger the species throughout all or a significant portion of its range.